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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3383 OF 2006

Sandip Hari Karande & Ors. .. Applicants

Versus

State of Maharashtra .. Respondents

Mr.P.R.Arjunwadkar for applicants

Mrs.Gadhvi, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5th October 2006.

P.C.

. Applicants are accused along with others in connection with C.R.No.50 of 2006 registered at Pandharpur City Police station alleging

offences punishable under section 302, 307, 323, 504 and 506 read with section 34 I.P.C. At the initial stage my attention was invited to a statement regarding age of the applicant No.2. Hence an order was passed directing the prosecution to produce prima facie material to show that applicant No.2 is not entitled to the protection of Juvenile Justice (Care and Protection of Children) Act 2000 as he is not a Juvenile in conflict with law.

2. After taking instructions, learned A.P.P. makes a statement that the school leaving certificate pertaining to applicant No.2 Kapil issued by the Head Master, Vivek Vardhini Vidyalaya shows that his date of birth as 5th November 1985. A copy of this certificate is given to Mr.Arjunwadkar, Advocate for applicants. He, upon going through the certificate, does not press applicability of Juvenile Act at this stage and proceeds to make submissions on merits. He has invited my attention to the fact that the

deceased Chandrakant his son Sagar and mother were returning after lodging the complaint against applicants accused on 28th March 2006. The incident has taken place on this date and the father of the applicants before me, Hari, assaulted deceased Chandrakant with Koyta which resulted in fatal injuries and Chandrakant died. Applicants assaulted son of deceased with wooden stick and fist blows. There is no role attributed to the applicants insofar as attack on the deceased and in that behalf Mr.Arjunwadkar invites my attention to the statement of the complainant, wife of the deceased, his son Sagar and two eye witnesses. He submits that prima facie when there are no recoveries and even injury certificate is not produced as regards the son Sagar, then the applicants deserve to be enlarged on bail. He submits that the emphasis is on the homicidal death and that is how offence is allegedly committed.

3. Learned A.P.P. on the other hand has

invited my attention to the statements of one Anil Babar and Mahesh Kharat who are independent and not part of the family. She states that according to these witnesses who can be termed as eye witnesses, both applicants as well as their father have taken part in the act of assault and attacked the deceased and in such circumstances, when the offence is serious and punishable with death or imprisonment for life, this Court should not grant bail.

4. With the assistance of the Advocates appearing for both sides, I have perused the statement of wife of deceased, Anil Babar and Mahesh Kharat. The version is identical inasmuch as deceased Chandrakant was assaulted by Hari Karande. The son of deceased Sagar and daughter Sangita were present at that time. As far as applicant No.1 is concerned, he is alleged to have attacked Sagar, son of deceased, with the stick which he was carrying. Deceased was assaulted with Koyta by Hari as well. As far as

deceased is concerned, there is no role attributed to the applicants. In any event, the role attributed to applicant No.2 as well, pertains to holding Sagar, son of deceased. In such circumstances and when the applicants are aged about 20 years and agreeing to stay away from Pandharpur city, they deserve to be enlarged on bail. Hence, following order:-

i) The applicants (1) Sandip Hari Karande and (2) Kapil Hari Karande arrested in connection with C.R.No.50 of 2006 registered with Pandharpur City Police Station shall be enlarged in the sum of Rs.10,000/- each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicants shall not enter Pandharpur city and shall stay outside Pandharpur city. The applicants will remain present before the nearest

police station to their residence once a week between 5.00 p.m. and 7.00 p.m. till conclusion of the trial.

iii) The order of bail will be given effect only after the applicants furnish to the investigating officer the details about their place of residence and address where they propose to stay after they are enlarged on bail. The applicants will not change their residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicants shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicants shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)